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8           UNITED STATES DISTRICT COURT  
9           WESTERN DISTRICT OF WASHINGTON  
10           AT TACOMA

11           In the Matter of the Extradition of  
12           LEE MORRELL

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15           CASE NO. 3:24-MJ-05020-TLF  
16           ORDER RE DETENTION

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18       The United Kingdom (“UK”) has requested Lee Morrell’s extradition pursuant to its  
19       extradition treaty with the United States. Dkt. 1. The United States, in accordance with its  
20       obligations under the Treaty and pursuant to 18 U.S.C. § 3181 et seq., filed a complaint in this  
21       District seeking a warrant for Morrell’s arrest. *Id.* On January 23, 2024, the Court found probable  
22       cause for the allegations in the complaint and issued a warrant for arrest. Dkts. 1, 2.

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24       Morrell was arrested and he had an initial appearance on February 9, 2024, where the  
court set a detention and status hearing for February 15, 2024.<sup>1</sup> Dkt. 8. After hearing testimony  
and argument on the government’s request for detention at the February 15, 2024 hearing, the

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<sup>1</sup> The Court set an extradition/status hearing for March 1, 2024.

1 Court took the request for detention under advisement. Morrell remains in the custody of the  
2 U.S. Marshals Service.

3 Having considered the briefing, testimony, and the parties' oral argument the Court  
4 GRANTS the motion for detention.

5 **I. Background**

6 The UK seeks Morrell's extradition for prosecution for the offenses of Bribery contrary  
7 to Section 2(3) of the Bribery Act 2010, and Misconduct in Public Office contrary to common  
8 law. Dkt. 1. The factual allegations for the charges against Morrell are detailed more fully in the  
9 sworn complaint in support of extradition. *Id.* at ¶¶ 6(a) – (k).

10 Prior to moving to United States in 2017, Mr. Morrell was employed as a police officer  
11 with the Metropolitan Police in London from September 2006 until November 2017. Dkt. 10.  
12 Morrell has not returned to the UK since he left in 2017. He was arrested and interviewed in the  
13 UK in September 2015 on suspicion of Misconduct in Public Office for conduct between 2011  
14 and 2014. Dkt. 1 at 3 and 41. He was interviewed a second time in December 2015 and then  
15 placed on paid administrative leave as a result of the investigation. Dkt 1. On June 8, 2017,  
16 Morrell's solicitor received an email from the investigative agency stating his bail had been  
17 removed and he was released from custody "under investigation" (referred to as "RUI").<sup>2</sup> Dkt.  
18 18, Ex J. The Metropolitan Police then held an internal hearing and Morrell was dismissed from  
19 employment. Dkt. 10. Morrell denies his travel to the United States was "flight." He was married  
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<sup>2</sup> When on "RUI a suspect is free to go but the investigation remains open, and they may still be charged at  
a later date". Dkt. 17, Ex J, p. 11.

1 to a U.S. citizen on May 21, 2018 and owns a small business which he operates in Vancouver,  
 2 WA.<sup>3</sup> Dkt. 10.

## 3 II. Legal Standard

4 Unlike the presumption applicable in domestic criminal proceedings, “[t]here is a  
 5 presumption against bail in an extradition case.” *Salerno v. United States*, 878 F.2d 317, 317 (9th  
 6 Cir. 1989). The Supreme Court established this presumption against bail in *Wright v. Henkel*,  
 7 190 U.S. 40, 63 (1903), explaining that when a foreign government makes a proper request  
 8 pursuant to a valid extradition treaty, the United States is obligated to deliver the person sought  
 9 after he or she is apprehended:

10 The demanding government, when it has done all that the treaty and the law require  
 11 it to do, is entitled to the delivery of the accused on the issue of the proper warrant,  
 12 and the other government is under obligation to make the surrender; an obligation  
 13 which it might be impossible to fulfil if release on bail were permitted. The  
 enforcement of the bond, if forfeited, would hardly meet the international demand;  
 and the regaining of the custody of the accused obviously would be surrounded  
 with serious embarrassment.

14 *Id.* at 62.

15 Under *Wright*, fugitives may not be released on bail unless they demonstrate (1) they are  
 16 neither a flight risk nor a danger to the community, and (2) “special circumstances” warrant their  
 17 release. *See, e.g., Matter of Requested Extradition of Kirby*, 106 F.3d 855, 862–63 (9th Cir.  
 18 1996); *United States v. Leitner*, 784 F.2d 159, 160–61 (2nd Cir. 1986); *Matter of Extradition of*  
*19 Antonowitz*, 244 F. Supp. 3d 1066, 1068 (C.D. Cal. 2017); *Matter of Extradition of Mainero*, 950  
 20 F. Supp. 290, 294 (S.D. Cal. 1996).

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 23       <sup>3</sup> For confidentiality, Morrell’s spouse is referred to herein as “J.”, who testified at the hearing on February  
 24 15, 2024.

1           While bail is not ordinarily granted in extradition cases, courts may “extend that relief” if  
 2 “special circumstances” exist in a particular case. *Wright*, 190 U.S. at 63. The party seeking bail  
 3 has the burden to show that special circumstances exist and he does not present a risk of flight.  
 4 *Salerno*, 878 F.2d 317; *United States v. Taitz*, 130 F.R.D. 442, 445 (S.D. Cal. 1990). What  
 5 constitutes a “special circumstance” is varied and case-dependent:

6           The term “special circumstances,” however, “has never been precisely defined and  
 7 courts have addressed on a case by case basis particularly sufficient circumstances  
 8 that would reverse the strong presumption against bail.” *In re Extradition of*  
*Mainero*, 950 F.Supp. 290, 294 (S.D.Cal.1996); see *Kirby*, 106 F.3d at 863 (noting  
 9 that the Supreme Court’s decision in Wright “does not provide significant guidance  
 10 as to what ‘circumstances’ might be considered ‘special’ ”). Accordingly, “[t]he list  
 11 of potential ‘special circumstances’ is not limited to those previously recognized in  
 12 published decisions,” and “the determination of what constitutes a ‘special  
 13 circumstance,’ is left to the sound discretion of the trial judge.” *In re Extradition of*  
*Gonzalez*, 52 F.Supp.2d 725, 736 (W.D.La.1999)(citing *Beaulieu v. Hartigan*, 554  
 14 F.2d 1, 1 (1st Cir.1977)).

15           *In re Extradition of Santos*, 473 F. Supp. 2d 1030, 1036 (C.D. Cal. 2006). “This ‘special  
 16 circumstances’ standard is much stricter than the ‘reasonable assurance’ of appearance standard  
 17 made applicable to domestic criminal proceedings by the Bail Reform Act.” *Matter of*  
 18 *Extradition of Lui*, 913 F. Supp. 50, 53 (D. Mass. 1996).

### 19           **III. Discussion**

20           The government seeks to have Morrell detained without bond because he is a flight risk  
 21 and, even if he is not a flight risk, no “special circumstances” exist that justify release. Dkt. 3.  
 22 Morrell asserts he is not a flight risk and that special circumstances warrant his release. Dkt. 10.

#### 23           A. *Flight Risk*

24           In evaluating a fugitive’s risk of flight in the extradition context, courts have considered,  
 25 among other things, the fugitive’s financial means, ties with foreign countries, and incentive to  
 26 flee based on the severity of the offense. *See, e.g., Matter of Extradition of Ricardo Alberto*

1     *Martinelli Berrocal*, 263 F. Supp. 3d 1280, 1304 (S.D. Fla. 2017); *In re Extradition of Beresford-*  
2     *Redman*, 753 F. Supp. 2d 1078, 1091 (C.D. Cal. 2010) (finding that a “well-educated and  
3 sophisticated” fugitive facing serious charges in foreign country had both the “incentive and  
4 ability to flee” and therefore presented a flight risk).

5                 Morrell states he has lived at the same residence in Vancouver, Washington since 2017.  
6 He has been happily married to J. for over 5 years. J.’s family, including her mother and  
7 children, live in the Vancouver area. Additionally, as Morrell attends to J.’s physical limitations  
8 and medical needs, Morrell contends he has a strong incentive to abide by any terms of release.  
9 Morrell is a legal permanent resident and operates a small business. He has never made any  
10 effort to hide his whereabouts. He has no other criminal history. He participated in two  
11 interviews with the Metropolitan Police in 2015, and continued to live in the UK while he was on  
12 administrative leave from his job and under bail conditions. Morrell moved to the United States  
13 only after he was dismissed from his employment and placed on “RUI”. When he did move to  
14 the United States, he went through the legal immigration process and received status as a legal  
15 permanent resident.

16                 At the detention hearing, J. testified about her physical limitations and medical condition  
17 and the level and intensity of care she requires on a daily basis. This care includes ongoing  
18 assistance with movement, medical devices, personal care, medications, transportation for  
19 medical appointments, and other activities of daily living – all of which Morrell provides. J.  
20 states Morrell provides all her in-home care, that Morrell’s assistance is essential, and that she  
21 has no alternative way to meet her needs. The government has been sympathetic to J. and her  
22 need for assistance, but presented several ways in which those needs might otherwise be  
23 addressed if Morrell were detained.

1       The government notes Morrell provides no evidence he made attempts prior to his 2017  
2 departure from the UK to ensure his case was resolved, nor has he shown he made any efforts to  
3 contact the government of the UK before he left or after he was in the United States to inform it  
4 of his address and contact information. The government states the clear conclusion from  
5 Morrell's actions, i.e., relocation to the United States – after his arrest on criminal offenses,  
6 dismissal from police force, and being RUI – is that Morrell fled the UK in 2017 to avoid  
7 criminal prosecution.

8           A fugitive charged with a crime in another country is already by definition in flight or  
9 deliberately absent from that jurisdiction. *See United States v. Botero*, 604 F. Supp. 1028, 1035  
10 (S.D. Fla. 1985) (“In the context of determining whether a defendant poses a substantial risk of  
11 flight, this Court does not find any meaningful distinction between a person who left the country  
12 when he learned of pending charges and one who already outside the country refuses to return to  
13 face these charges. The intent is the same—the avoidance of prosecution.”) (citing *Jhirad v.*  
14 *Ferrandina*, 536 F.2d 478, 483 (2d Cir. 1976)). The prospect of significant jail time upon  
15 extradition also supports a significant incentive to flee. *See, e.g., Matter of Extradition of*  
16 *Ricardo Alberto Martinelli Berrocal*, 263 F. Supp. 3d at 1305 (fugitive’s age coupled with “a  
17 potential twenty-one-year sentence in Panama” rendered fugitive “serious flight risk”); *In re*  
18 *Adame*, 2013 WL 1222115, at \*3 (S.D. Tex. Mar. 25, 2013) (fugitive “has virtually no incentive  
19 to appear at his extradition hearing, where, due to the Government’s low burden of proof, there is  
20 a significant risk that he will be formally extradited to Mexico”). Though the government cannot  
21 predict the ultimate length of any custodial sentence, it states the maximum sentence for the  
22 offense of Misconduct in Public Office is life imprisonment. Dkt. 1 at p. 67. At the detention  
23 hearing, both counsel referenced a media story in the UK stating another individual involved in  
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1 the same investigation as Morrell had been convicted and sentenced to seven-and-a-half years in  
2 prison on July 18, 2023. Dkt. 12, Ex A. p. 6.

3 When considering the risk of flight Morrell presents, the Court notes Morrell's  
4 assimilation into a life with J. within this district, his ongoing business, lack of criminal history,  
5 and sincerity all support a conclusion of his not being of risk of flight. Under the Bail Reform  
6 Act this would be strong evidence to support release. However, in an extradition case context the  
7 Court does not apply the same principles as required under the Bail Reform Act. *See Matter of*  
8 *Extradition of Nacif-Borge*, 829 F.Supp. 1210, 1213 (D. Nev. 1993). Instead, the Court considers  
9 the question of flight risk in the context of the United States' obligation to the UK under the  
10 applicable treaty where the United States has a substantial interest in surrendering a person  
11 subject to extradition in compliance with the Treaty. *See Wright*, 190 U.S. 40. From this  
12 perspective, the record shows Morrell left the UK in 2017 when he was RUI and, therefore, was  
13 on notice the investigation was still pending and he could still have charges brought against him.  
14 Since 2017, he has assimilated into a life in the United States with J.; he has his own business,  
15 which provides predictable and reliable income. Nonetheless, as he now faces an uncertain and  
16 possibly significant term of custody in the UK, he does represent a risk of flight.

17 Even if the Court had found him not to be a risk of flight, the Court finds Morrell has not  
18 otherwise established that special circumstances warrant his release.

19       B. *Special Circumstances*

20 Morrell assert the following special circumstances provide a basis for release: 1)  
21 Morrell's care for his wife, who is disabled; (2) the UK's lengthy delay in seeking Morrell's  
22 prosecution and extradition while Morrell was living openly in the United States; and (3) the  
23 availability of bail in the UK. Dkt. 10, 16. The Court will address each in turn.

1       1. Morrell's care for his wife, who is disabled.

2                  As noted above, Morrell provides daily care for his wife, J., who is paralyzed from the  
3 chest down and dependent on a wheelchair. Dkt. 10. J. testified that she lacks an immediate  
4 ability from friends, family members, or care givers to provide such care should Morrell be  
5 detained. Family members experience hardship – often significant – whenever a family member  
6 is detained pending extradition proceedings. As one court noted:

7                  [T]h[e] possibility [of unwelcome financial strain], however unfortunate, is present  
8 in almost every case where a defendant with family faces detention pending  
9 adjudication. Accordingly, the fact that the defendant's family depends on him for  
financial and emotional support is not a special circumstance weighing in favor of  
release.

10       *Matter of Extradition of Drumm*, 150 F. Supp. 3d 92, 99 (D. Mass. 2015). Similar to the  
11 circumstance presented here, other courts have denied bail in circumstances in which detention  
12 would result in substantial hardship to family members. *See, e.g., In re Extradition of Beresford-*  
13 *Redman*, 753 F. Supp. 2d at 1088 (finding no special circumstance where denying bail would  
14 leave young children without a parent and noting deprivation of a parent's love and support,  
15 when that parent has been charged with a crime, is not a unique and "special" circumstance, but  
16 rather a consequence of every criminal defendant's arrest); *Matter of Extradition of Budrys*, 2019  
17 WL 1958566, at \*6 (N.D. Ill. May 2, 2019) (denying bail despite facts that fugitive was the  
18 primary caretaker of his three young children while his wife pursued her education, that his  
19 charges were non-violent and of a financial nature, that there was some delay in the extradition  
20 proceedings, and that fugitive claimed he had a strong possibility of success on the merits).

21                  The Court finds the impact to J. from Morrell being detained to be a significant family  
22 hardship. However, the case authority does not make that finding dispositive. In addition, cases  
23 have considered significant family hardship persuasive only along with other factors of special  
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1 circumstance. *See, e.g., Matter of Extradition of Netzky*, 2022 WL 2315976, at \*1 (D. Or. June  
 2 28, 2022) (bail granted because: (1) the nearly 20-year delay in prosecution and extradition, and  
 3 no allegations of criminal conduct since May 2000 in Poland; (2) Ms. Netzky is a legal  
 4 permanent resident and has strong ties to Oregon and to the United States; (3) Ms. Netzky's  
 5 familial caretaking responsibilities, including government-certified care of a disabled spouse and  
 6 primary care of a young daughter, rendered more critical in light of Covid-19; and (4) no  
 7 compelling evidence that Ms. Netzky has attempted to evade prosecution (which was not  
 8 initiated until two years after she left Poland).” Thus, standing alone, the finding of a significant  
 9 family hardship is not sufficient to justify release.

10       2. The lengthy delay in the UK seeking Morrell’s prosecution and extradition (“lack of  
 11 diplomatic urgency”).

12       Courts have held that a special circumstance exists where the requesting nation has “not  
 13 made prosecution of [the] offense a priority.” *See In re Extradition of Chapman*, 459 F. Supp. 2d  
 14 1024, 1027 (D. Haw. 2006) (finding a special circumstance where “Mexico waited three years  
 15 before bringing extradition proceedings against the Respondents, during which Respondents  
 16 were living openly and notoriously”); *see also United States v. Castaneda-Castillo*, 739 F. Supp.  
 17 2d 49, 57-58 (D. Mass. 2010) (finding lack of explanation for five-year delay between issuance  
 18 of an order commencing the investigation and the defendant’s provisional arrest, where  
 19 defendant was “easily found,” weighed “very heavily in favor of release”); *Wroclawski v. United*  
 20 *States*, 634 F. Supp. 2d 1003, 1008 (D. Ariz. 2009) (finding lack of explanation for eleven-year  
 21 delay in seeking extradition, “despite the fact that Petitioner lived openly in the United States and  
 22 made no effort to hide his whereabouts,” was a special circumstance favoring release).

1       The record shows the criminal investigation against Morrell commenced in 2015 and that  
2 he was released RUI in 2017. UK authorities did not seek an arrest warrant for Morrell until  
3 November 2021. Dkt. 1 at 53. The UK Magistrate Court was aware of Morrell's whereabouts in  
4 2021 as his Vancouver, Washington address is listed on the warrant. *Id.* UK authorities then  
5 waited until September 2023 to request extradition from the United States. Dkt. 1 at 10. This  
6 extradition case was commenced January 23, 2024, and Morrell was arrested in his home on  
7 February 9, 2024. The UK investigation (which includes Morrell) resulted in conviction(s) and  
8 sentencing of other co-defendants in July 2023. *See* Dkt. 12-1 at 6.

9       Morrell's argument of lack of diplomatic urgency is not a special circumstance. The  
10 Court acknowledges the procedural history of the UK case, the fact of Morrell's prior arrest and  
11 release RUI, the dates of the alleged criminal conduct, and other facts as stated in in the record.  
12 Nonetheless, there is no time limit in the Treaty for requesting extradition and there is no  
13 unreasonable delay. The UK investigation was active in July 2023 as evidenced by co-defendants  
14 being convicted and sentenced and then Morrell was arrested in February 2024. This  
15 approximate six-year delay from being released RUI with Morrell knowing he was still subject to  
16 having charges brought is not unreasonable. *Compare Wroclawski*, 634 F. Supp. 2d at 1008 (a  
17 nearly 12 year delay was a special circumstance) *with In re Extradition of Drayer*, 190 F.3d 410,  
18 415 (6th Cir. 1999) (the fourteen-year delay was not a special circumstance) and *Matter of*  
19 *Extradition of Drumm*, 150 F. Supp. 3d at 98 (7 year delay was not unreasonable). But,  
20 diplomatic urgency is not just temporal and must be considered within the contours of a treaty as  
21 other important considerations, such as the interests of the treaty parties, the foreign policy  
22 concerns, and relationships with the United States.

1 Even if Morrell could show lack of diplomatic urgency – which he has not – any  
2 consideration of delay must be left to the discretion of the U.S. Secretary of State. *See Man-Seok*  
3 *Choe v. Torres*, 525 F.3d 733, 741 (9th Cir. 2008) (concluding “[t]o the extent there was a delay,  
4 this is a matter left for the Secretary of State’s consideration”); *Martin v. Warden, Atlanta Pen.*,  
5 993 F.2d 824, 830 (11th Cir. 1993) (fugitive “should direct his argument that extradition is unjust  
6 in this case based on Canada’s alleged lengthy delay in seeking extradition or on humanitarian  
7 grounds to the Executive Branch”).

8       3. Availability of bail in the UK.

9       Morrell asserts the availability of bail under the pending case in the UK is a special  
10 circumstance warranting release. He cites several cases which support the proposition that the  
11 possibility of bail on the underlying offense may properly be considered in combination with  
12 other factors to support a finding of special circumstances. Dkt. 12. The government notes a split  
13 of authority and cites cases which hold the “availability of bail” in the UK as an additional  
14 special circumstance is incorrect factually and legally. Dkt. 16.

15       Here, Morrell states since other individuals charged from the same investigation as  
16 Morrell were granted unconditional bail pending trial, bail is available on the underlying  
17 substantive offense and “it appears very likely that Mr. Morrell would be granted bail in the  
18 UK.” Dkt. 12. In response, the government states that, while other individuals may have been  
19 granted bail, Morrell’s bail determination is not definitive given his having relocated to the  
20 United States during the pendency of the criminal investigation. Dkt. 16.

21       Here, bail in the UK is not guaranteed. Also, its availability to Morrell is not assured and  
22 would likely be less certain given his relocation to the United States, which required the  
23 commencement of extradition proceedings. The Court notes the split in authority, but follows the  
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1 reasoning of the approach which does not consider the possibility of bail as a special  
2 circumstance. *In re Extradition of Kyuing Joon Kim*, 2004 WL 5782517, at \*2 (C.D. Cal. July 1,  
3 2004) (“[M]ost extraditees would be entitled to bail and this directly contradicts Supreme Court  
4 and federal appellate court decisions which conclude that bail is the exception rather than the  
5 rule.” (cleaned up)).

6 **IV. Conclusion**

7 Morrell has not met his burden to show he would not be a flight risk and has failed to  
8 establish the confluence of special circumstances he asserts are sufficient to overcome the strong  
9 presumption against bond. Accordingly, the Court GRANTS the motion for detention.

10 Dated this 23rd day of February, 2024.

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13 David W. Christel  
Chief United States Magistrate Judge